



**DEFENSE INTELLIGENCE AGENCY**  
**GENERAL COUNSEL**

OCA 3940-88

1 Dec 1988

Memo For [redacted] Deputy Director  
for Legislation

RE: DIA, NSA, Army Intelligence Legislative  
Programs

The precoordination requirements that DASD(I) is advocating would pretty much eliminate an intelligence-oriented legislative program from the Intelligence Community agencies in Defense. A least common denominator approach, with every DoD component effectively holding a veto, would prevent most proposals from reaching the starting gate - including those that have been enacted in the past. For example, FM&P will never support a personnel related provision unless it applies to all military or all civilians uniformly.

We are going to continue to "work" this problem within Defense. What I am suggesting here is that the DCI has some interest in the disenfranchisement of the DoD Senior Officials of the Intelligence Community. I propose that [redacted]

[redacted] and myself meet with you and John Helgersen in the near future to bring things into a little sharper focus than they now are.

[redacted]  
General Counsel



DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340-

01 DEC 1988

U-519/GC

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Memorandum for:

Deputy Director for Legislation  
Office of Congressional Affairs  
Central Intelligence Agency

Subject: FY-1990 Intelligence Authorization Bill

Reference: Your memorandum dated 25 November 1988, subject as above.

1. The referenced memorandum transmitted the second draft of the FY-1990 Intelligence Authorization bill. It invites our comments on the bill in general and with regard to certain proposals submitted by the Defense Intelligence Agency.

2. With regard to the bill in general, we are not inclined to question the need for legislative relief identified by our fellow Intelligence Community agencies and have no reason to do so in this case. As we understand the various provisions set forth in the draft, we do not see an adverse impact on DIA interests.

3. The DIA proposal that would provide for foreign language proficiency incentive pay has been previously coordinated through DoD, including the Deputy Assistant Secretary of Defense (Intelligence). It was forwarded by DoD General Counsel to OMB for submission to the 100th Congress on 4 August 1988. Previous to that, DoD supported language proficiency pay as (then) section 701 of the Intelligence Authorization Act for FY-1989. It would be incorrect to advise the Director of Central Intelligence that DoD is opposed to this provision. Opposition was expressed from the Office of Force Management and Personnel, but that opposition did not become the DoD position. We are optimistic that, in the OMB coordination cycle on the FY-1990 Intelligence Authorization Bill, history will repeat itself - that is, despite critical comments from some components of DoD, the overall DoD position will be to support this provision. We are prepared to be quite active in support of this provision, and would appreciate the support and leadership of the DCI. In order to be clearly understood, let me say that we consider language proficiency pay to be the "gold watch" of the DIA legislative program.

4. With regard to the proposal that would exclude the DIA Director and Deputy Director and the NSA Director from Service ceilings on flag billets, I cannot tell you that this has been coordinated through DoD. In my discussions with a representative of FM&P the reaction was at first very positive, inasmuch as this proposal presented a very plausible context to do what has been

championed in various other contexts in recent years. In the end, however, the FM&P position was one of opposition. The first consideration was that inclusion in the Intelligence Authorization bill might appear as an end run to the Armed Services Committees. In order to get a view on the merits, I suggested consideration of sequential referral or inclusion in the DOD Authorization Bill. The response then was that this issue of ceiling exemptions had been a point of contention between DoD and the Congress for some years back and no one (in FM&P) cared to revisit it again just now. If prior coordination means acquiring the approval of each and every DoD component, we have struck out on FM&P. If coordination means getting a majority or consensus of DoD components to approve, realistically I do not believe this can be done prior to the time the Intelligence Authorization bill is sent to the DCI. If this one is to survive, it must go forward on the basis of Intelligence Community interest.

5. Forwarded herewith is a fuller explanation of our need for the overseas benefits comparability provision. I believe the case for permitting attaches to be supported with benefits comparable to other embassy personnel is a strong one and warrants inclusion of this provision in the bill.

6. We continue to view the attache death gratuity proposal as a meritorious one. As you know, however, the Congress has requested the Department to report its views on this in the February 1989 timeframe. If one were to take an aggressive approach to seeking enactment at the earliest possible time, it might be argued that the provision should be attached to a legislative vehicle that will be taken up by the committees in the same time frame as that in which the report will be available. However, in light of the strength of the opposition generated by FM&P to paying the currently authorized death gratuity to the family of Captain Nordeen, it would be unnecessarily antagonistic to include at this time the permanent amendment favored by DIA. If there is a favorable report by the Department to the Congress, we can reintroduce the legislation in whatever form then appears appropriate.

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I Enclosure  
Fuller Explanation  
on the Need for  
Comparability in  
Attache Overseas Benefits

General Counsel

THE NEED FOR COMPARABILITY IN OVERSEAS BENEFITS  
FOR THE DEFENSE ATTACHE SYSTEM

Most military members of the DAS believe they are treated as second class citizens because their package of benefits and allowances does not compare favorably with that available to Foreign Service Officers and other U.S. government civilian employees at the same Embassy. Glaring discrepancies have caused serious morale problems within Defense Attache Offices (DAOs) and have caused a significant problem in attracting well-qualified individuals and retaining experienced intelligence collectors within the DAS. Largely because of such inequities, only one third of DAS personnel opt to serve a repeat tour in the DAS. Experienced personnel are the most valuable asset in the system. A fifty percent repeat tour rate would optimize professional DAS experience while still allowing sufficient new blood to enter the system so as maintain close links between attaches and the Services they represent. Surveys of DAS personnel show that inequitably distributed benefits have the greatest negative impact on DAS morale and retention and that roughly 11 percent of military personnel would opt for repeat tours in the DAS if benefits for DAS members were roughly comparable to those received by their Foreign Service and Civil Service colleagues.

DAS morale and retention problems, founded on feelings of relative deprivation, have actually increased over the years as the size of the DAS has shrunk. The DAS is asked to perform more tasks with fewer people, and these people increasingly associate

with other U.S. government employees who receive substantially greater benefits for service at the same post.

Civilian education allowances for dependent boarding schools, paid home leave benefits, substantial foreign language proficiency pay, substantial danger pay, and post hardship differential pay are the overseas benefits most desired by military members of the U.S. mission. DAS members quite understandably would like to have these benefits, which flow automatically to State Department and CIA personnel serving overseas. Discriminatory treatment has caused DAS family morale problems which have repeatedly come to the attention of Ambassadors, Community Liaison Officers, and Embassy medical specialists.

It is, of course, very difficult to substantiate the degree to which morale and retention problems in the DAS negatively affect DAO mission performance. It is clear, however, that it takes new members of the DAS six to twelve months on the job to become fully proficient. Most members of the DAS have lengthy and expensive foreign language training and intelligence or administration training prior to posting. In many cases attaches have also been fully funded for area studies degrees in preparation for attache duty. The investment in attache training is so great that we need to get more than one or two years of productive payback. We need to have at least 50 percent repeat tours for DAS personnel. This is not only the conclusion of DIA; it is also the conclusion of the Senate Select Committee on Intelligence, which has repeatedly pressed DIA to insure a

greater percentage of experienced professionals in the DAS.

Fortunately, benefits and allowances for DIA civilians working in the DAS are virtually identical to State Department benefits. With the exception of schooling issues, DoD civilians are covered by the "Standardized Regulations (Government Civilians, Foreign Areas)." Though Dependent Schooling for DoD civilians is tied to DoD Dependent Schools (DoDDs), DIA has already received congressional authorization to separately fund schooling for DAS dependents as may be made necessary by particular posting hardships.

The real problem is in providing comparable benefits and allowances for military personnel and their dependents in the DAS. Existing legislation authorizes DoD to provide military members of the DAS with some of the benefits and allowances now provided to State Department personnel serving overseas. However, there is a need to obtain a more general authorization for DoD to provide to DAS personnel in appropriate cases benefits and allowances comparable to those received by their State Department colleagues.

Congress has authorized several important benefits for State Department and DoD civilians that it has not authorized for military members of the DAS. The first of these is "Post Hardship Differential Pay," an amount equal to 10, 15, 20, or 25 percent of base pay. This additional pay is explicitly designed as a recruitment and retention incentive for posts characterized by extraordinarily difficult living conditions, excessive physical hardship, or notably unhealthy living conditions (see

5 USC 5925). There are now 62 capital cities where U.S. government civilian employees receive post hardship differential pay but their military colleagues serving in the DAO office do not, though the military personnel and their dependents clearly suffer identical hardships. As a result the DAS suffers recruitment and retention problems at the 62 posts listed in Enclosure 1. In the 1940s Congress authorized Special Foreign Duty Pay for military personnel (10 percent of base pay for officers and 20 percent of base pay for enlisted personnel) as a morale factor and in recognition of greater-than-normal rigors of service in particular locations. Now, however, such pay is only available to enlisted personnel and it never amounts to more than \$22.50 per month.

A second major discrepancy in benefits exists in foreign language proficiency pay. Uniformed military personnel may receive only \$100 per month (37 USC 316), while State Department personnel may receive a bonus of up to 15 percent of base pay for the identical language skill used in the same way at the same post (22 USC 4024). In fact, 27 languages qualify for a State Department 15 percent bonus at the S4/R4 proficiency level and for a 10 percent bonus at the S3/R3 level.

A third major inequity relates to danger pay. For military members hostile fire pay or imminent danger pay cannot exceed the lowest level of hazardous duty incentive pay, currently \$110 per month (37 USC 310), while State Department personnel can receive up to 25 percent of base pay for service in the same location (5 USC 5928).

A fourth major inequity in legislative authority relates to dental care. State Department personnel and their dependents may receive one round trip per year, plus one day per diem, for dental care not available at a remote location (22 USC 4081). Uniformed members of the DAS have no comparable benefit unless the dental problem results in a medical emergency.

There are a host of small, but cumulatively significant, discrepancies that can be ticked off:

- State Department personnel serving unaccompanied tours in danger areas are permitted two paid round trips per year to visit their families. Members of the DAS can only accomplish such visits while on environmental and morale leave and could have only a portion of their expenses reimbursed (22 USC 4081 (8)).

- All State Department employees have an 18,000 lb. shipping allowance. Senior officers in the military will qualify for this only in mid-1989, and lower ranking personnel receive considerably less (5 USC 5724 and 5726, 22 USC 4081 (11) and (12) versus public law 100-565 of 31 Oct 88). The shipping allowance is particularly important to DAS personnel in light of the substantial representational requirements of their mission.

- State Department personnel can qualify for special Sunday pay, no similar benefits (22 USC 3972 and 5 USC 5545/5546).

- State Department personnel can be reimbursed for converting household appliances, obtaining new auto registration and drivers' licenses (5 USC 5924). Military personnel have no

**similar authorizations.**

<u>COUNTRY</u>	STATE DEPARTMENT HARDSHIP POST DIFFERENTIAL <u>RATE (%)</u>	<u>NUMBER OF MILITARY MEMBERS IN THE DAO</u>
Algeria	15	3
Bangladesh	25	2
Belize	20	2
Bolivia	25	5
Brazil	10	11
Bulgaria	15	4
Burma	25	5
Cameroon	15	3
Chad	25	3
Chile	10	8
China	20	14
Colombia	15	9
Congo	25	2
Cyprus	10	3
Czechoslovakia	10	4
Dominican Republic	20	4
Ecuador	15	7
Egypt	20	8
El Salvador	20	9
Fiji	15	2
Ghana	25	3
Guatemala	15	5
Haiti	25	3
Honduras	20	9
India	15	11
Indonesia	15	10
Iraq	25	2
Ivory Coast	15	6
Jamaica	15	3
Jordan	10	5
Lebanon	25	3
Liberia	25	6
Madagascar	25	2
Malawi	10	2
Malaysia	10	6
Mexico	10	13
Mozambique	25	2
Nepal	15	2
Nicaragua	25	5
Nigeria	25	4
Oman	20	5
Pakistan	20	9
Panama	10	5
Paraguay	10	2
Peru	10	9
Philippines	15	11
Poland	15	4
Romania	15	4

ENCLOSURE 1

Saudi Arabia	20	9
Senegal	15	3
Somalia	25	6
Sri Lanka	25	3
Sudan	25	3
Surinam	20	3
Syria	25	3
Thailand	10	12
Tunisia	10	5
Turkey	10	12
USSR	25	15
Yemen	25	3
Zaire	20	8
Zimbabwe	10	2

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TOTAL 346